

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CLAY BURGON,

Plaintiff

v.

STATE OF NEVADA *ex rel.*, NEVADA  
DEPARTMENT OF CORRECTIONS, *et al.*,

Defendants

Case No. 2:20-cv-02336-KJD-DJA

**ORDER**

**I. DISCUSSION**

On December 28, 2020, Plaintiff, an inmate in the custody of the Nevada Department of Corrections ("NDOC"), submitted a civil rights complaint under 42 U.S.C. § 1983. (ECF No. 1-1). Plaintiff has neither paid the full \$402 filing fee for this matter nor filed an application to proceed *in forma pauperis*.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**.

The Court will grant Plaintiff a **one-time** opportunity to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay the full \$402 filing fee for this action on or before **March 1, 2021**.

1 Absent unusual circumstances, the Court will not grant any further extensions of time.

2 If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis*  
 3 with all three required documents or pay the full \$402 filing fee on or before **March 1,**  
 4 **2021**, this case will be subject to dismissal without prejudice for Plaintiff to file a new case  
 5 with the Court when Plaintiff is either able to acquire all three of the documents needed  
 6 to file a fully complete application to proceed *in forma pauperis* or pays the full \$402 filing  
 7 fee.

8 A dismissal without prejudice means Plaintiff does not give up the right to refile the  
 9 case with the Court, under a new case number, when Plaintiff has all three documents  
 10 needed to submit with an application to proceed *in forma pauperis*. Alternatively, Plaintiff  
 11 may choose not to file an application to proceed *in forma pauperis* and instead pay the  
 12 full filing fee of \$402 on or before **March 1, 2021** to proceed with this case.

13 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court  
 14 will not file the complaint unless and until Plaintiff timely files a fully complete application  
 15 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

## 16 **II. CONCLUSION**

17 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court will send  
 18 Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well  
 19 as the document entitled information and instructions for filing an *in forma pauperis*  
 20 application.

21 IT IS FURTHER ORDERED that on or before **March 1, 2021**, Plaintiff will either  
 22 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52  
 23 administrative fee) or file with the Court:

24 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this  
 25 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two  
 26 signatures on page 3),

27 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail  
 28 official (i.e. page 4 of this Court's approved form), and

1 (3) a copy of the inmate's prison or jail trust fund account statement for the  
2 previous six-month period.

3 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete  
4 application to proceed *in forma pauperis* with all three documents or pay the full \$402  
5 filing fee for a civil action on or before **March 1, 2021**, this case will be subject to dismissal  
6 without prejudice for Plaintiff to refile the case with the Court, under a new case number,  
7 when Plaintiff has all three documents needed to file a complete application to proceed  
8 *in forma pauperis* or pays the full \$402 filing fee.

9 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint  
10 (ECF No.1-1) but will not file it at this time.

11 DATED: December 30, 2020

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13 UNITED STATES MAGISTRATE JUDGE  
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